

MAR 10 2023

SENATE RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT MAALAEA BEACH LOTS, WAIKAPU, WAILUKU, MAUI, FOR THE EXISTING SEAWALL AND ROCK REVETMENT, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, AND REMOVAL OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, a portion of the existing seawall and rock
2 revetment fronting the property identified as Tax Map Key: (2)
3 3-8-014:seaward of 022, Maalaea Beach Lots, Waikapu, Wailuku,
4 Maui, is on state submerged lands; and

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6 WHEREAS, around August 2015, the Department of Land and
7 Natural Resources' Office of Conservation and Coastal Lands
8 worked with the property owners, the Association of Apartment
9 Owners of Milowai-Maalaea, to resolve the encroachment; and

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11 WHEREAS, the Office of Conservation and Coastal Lands
12 indicated they would support a long-term easement to resolve the
13 encroachment because the seawall has no discernable effect on
14 beach and recreational resources, and does not act as a
15 detriment to public access; and

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17 WHEREAS, the Office of Conservation and Coastal Lands has
18 determined that no improvement would be gained by removing the
19 encroaching seawall because there are similar seawalls
20 neighboring the property and to the east stretching along the
21 shoreline of Maalaea Bay; and

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23 WHEREAS, the Office of Conservation and Coastal Lands has
24 determined the encroachment serves as primary erosion control
25 for potentially threatened structures, but that impacts to the
26 adjacent and upland developments must also be considered; and

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28 WHEREAS, at its meeting of October 9, 2015, under agenda
29 item D-6, the Board of Land and Natural Resources approved a



1 grant of a fifty-five year term, non-exclusive easement to
2 resolve the seawall and rock revetment encroachment, and
3 authorized the easement to run with the land and inure to the
4 benefit of the abutting real property; and

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6 WHEREAS, at its meeting of January 8, 2021, under agenda
7 item D-5, the Board of Land and Natural Resources approved an
8 amendment to the Board action of October 9, 2015, item D-6, to
9 shorten the term of the easement from fifty-five to twenty-five
10 years, or in the event the applicant is not successful in
11 acquiring the fee or obtaining an extension of the ground lease
12 of the abutting apartment property, to end on December 31, 2038,
13 concurrent with the expiration of the ground lease for the
14 abutting apartment property; and

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16 WHEREAS, the total encroachment area was determined to be
17 1,737 square feet as reviewed and approved by the Department of
18 Accounting and General Services' Survey Division; and

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20 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
21 the prior approval of the Governor and prior authorization of
22 the Legislature by concurrent resolution to lease state
23 submerged lands; now, therefore,

24
25 BE IT RESOLVED by the Senate of the Thirty-second
26 Legislature of the State of Hawaii, Regular Session of 2023,
27 that the Board of Land and Natural Resources is hereby
28 authorized to issue a term, non-exclusive easement covering a
29 portion of state submerged lands fronting the property
30 identified as Tax Map Key: (2) 3-8-014:seaward of 022, Maalaea
31 Beach Lots, Waikapu, Wailuku, Maui, for the existing seawall and
32 rock revetment, and for use, maintenance, repair, replacement,
33 and removal of the existing improvements constructed thereon
34 pursuant to section 171-53, Hawaii Revised Statutes; and

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36 BE IT FURTHER RESOLVED that a certified copy of this
37 Resolution be transmitted to the Chairperson of the Board of
38 Land and Natural Resources.

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40
41 OFFERED BY:

 B/R

